

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION



Procurement Management Review Report

LANGLEY RESEARCH CENTER

July 13 – 24, 2009

OFFICE OF PROCUREMENT

HEADQUARTERS

WASHINGTON, D.C.

PREFACE

The NASA Headquarters Office of Procurement conducted the procurement management review at the Langley Research Center (Langley) under the authority of NASA Procedures and Guidelines 1000.3, The NASA Organization. The review was conducted from July 13 - 24, 2009. The report contains strengths, weaknesses, and considerations identified in the review.

An exit briefing was held on July 24, 2009, to discuss the survey findings.

This report serves as a basis, in part, for fulfilling internal control requirements in accordance with the Federal Manager's Financial Integrity Act of 1982 (P.L. 97-255).



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Section I

OVERVIEW

The Langley Office of Procurement (Langley Procurement) is providing meaningful support to their technical and program customers.

The procurement management review consists of two primary components: 1) interviews with technical, procurement, and legal office personnel regarding the effectiveness of the procurement organization, and 2) compliance reviews that consist of a review of contracting actions focused on compliance with procurement statutes, regulations, and procedures. The primary emphasis of the compliance portion of the review is on systemic procurement processes rather than individual file anomalies. Current procurement innovations, both Agency-wide and Center-specific, are also reviewed. A concurrent review of the Small Business Programs was conducted by representatives from the Headquarters Office of Small Business Programs (Small Business). A copy of the results of that review and Small Business recommendations are attached.

The results of both the interviews and compliance reviews are compiled into narrative summaries with strengths, weaknesses, and areas of consideration identified as appropriate. Strengths are generally defined as best practices utilized in support of the procurement system. Weaknesses are defined as problems, typically systemic, that require corrective actions. Considerations are defined as issues that: 1) if not corrected could turn into a problem or problems that are not necessarily systemic but should be corrected, or 2) would result in better business practices if corrected.

The team sought to identify Langley processes or initiatives that may be beneficial to other Centers. Conversely, the team also sought to identify suggested approaches utilized by other Centers that may be beneficial to Langley in an effort to promote the exchange of successful lessons learned and innovative procurement methodologies among Centers.

The exit conference at the conclusion of the review typically consists of a direct exchange of observations and ideas between the participants. Center ownership of the resolution of any identified weaknesses or considerations is emphasized through the review follow-up process. This process focuses on actions or initiatives undertaken by the Center to address review findings. The Langley Procurement Officer shall provide a summary of the actions taken to resolve all weaknesses and considerations in this report in writing to the Assistant Administrator for Procurement and review manager. The summary will be included in the semi-annual Center Self Assessment report approximately six months after the issuance of this report. Updates on efforts to address review findings are also included in subsequent Center Self Assessments. The procurement management review manager will coordinate with the Center's Headquarters Procurement Analyst to issue written closure of weaknesses identified in the review after the Center completes all corrective actions.

1. Team Membership:

Below is a list of team members and the areas reviewed:

Yolande Harden, HQ: Review Manager: Interviews (procurement, technical, and legal), Organizational Structure and Staffing, and Closeout Process and Unliquidated Obligations

Don Moses, HQ: Metrics Review and Documentation, Master Buy Plan Actions, Exercise of Options, Financial Management Reporting, and Source Selection Process

Katherine Autry, JSC: COTR Training and Delegations, 1102 Career Development and Training, Government Furnished Property, Construction and A&E Services, and Environmental Issues

Rogelio Curiel, KSC: Self Assessment Process, Internal Policies and Procedures, Competition under Multiple Award and Task and Delivery Order Contracts, and Simplified/Commercial Acquisitions

Veronica Lansey, HQ: Justification for Other than Full and Open Competition, Deviations and Waivers, Contractor Safety Requirements, Undefined Contract Actions, Utilization of GSA Schedules, and Purchase Card Program

Melinda Dodson, MSFC: Pre and Post Negotiation Documentation, Evaluation of Contractor Performance, Interagency Agreements, and Contract Management Module

Sandra Morris, HQ: Award/Incentive Fee Contract Evaluation, Subcontract Consent, Cost/Price Analysis and Profit/Fee Determination, DCAA Audit Follow-up Process, Technical Evaluations, and Small Business Innovative Research (SBIR) Awards

Small Business Representative

Richard Mann, OSBP: Small Business Programs

2. Review Support:

The review could not have been accomplished successfully without the support of the following individuals:

Tracy Siegel	Langley Point of Contact
Randy Manning	Langley Point of Contact

SECTION II

ORGANIZATION - MANAGEMENT

1. Organizational Structure and Staffing

The Langley Procurement organizational structure remains virtually unchanged since the previous review conducted in 2006. The organization consists of three branches: Business Management, Center Operations Contracting, and Research and Projects Contracting. The position of Source Evaluation Board Advisor at the GS 15 level was recently established. Langley Procurement is re-visiting the Team Lead concept for the branches. There are currently three non-supervisory GS 14 lead positions supporting: Aeronautics Research Mission Directorate, National Institute of Aerospace and new business activities. Langley Procurement currently consists of 57 civil servant employees including the Procurement Officer and Deputy. A total of nine employees retired, ten transferred to other agencies, and one resigned; 26* contract specialists and one price analyst were hired since the last review. (*Five of the 26 subsequently left the organization.)

The current Procurement Officer assumed responsibilities in November 2008 upon the retirement of the previous Procurement Officer. The Deputy Procurement Officer and Branch Heads are now permanently assigned; during the previous review the managers rotated among the various positions. Support contractors are utilized to supplement the civil servant workforce in a variety of areas. They provide support for grants, cooperative agreements, and SBIRs; Contract Management Module (CMM) support; contract closeout support; process simplified acquisitions under \$50K; expedite purchase orders; and perform data entry functions for FPDS-NG.

2. Procurement Staff Interviews

Interviews were conducted with several members of the Langley Procurement workforce to gain a greater insight into the effectiveness of the organization. Interviews were conducted with a wide range of individuals varying from the most junior levels to senior personnel with more than 30 years procurement experience. Many of the people interviewed were relatively new to the Center with less than five years at Langley. However, many in this group had previous experience with other federal agencies, particularly Langley Air Force Base.

The overall response from procurement personnel regarding the status of Langley Procurement was very positive. The transition to the new Procurement Officer was well received and many are pleased with the attention focused on working level personnel by senior management within the organization. The efforts made by the Procurement Officer to visit the respective offices are welcomed by most as a sign of concern for the people within the organization. A few individuals still perceive that some issues need resolution and that not everyone within the organization has an equal opportunity for certain assignments.

Most people interviewed perceived morale as good. Some stated that morale has improved in recent months while a few perceive that things are not so good. Generally, workload levels are perceived as

manageable, “heavy and steady” was an often used phrase to describe workload. The end of the fiscal year activities, Recovery Act issues, and conference spending issues are current key concerns. Some individuals voiced concern that workload assignments were not always equitably distributed within the offices. Communication within the organization is perceived as excellent by most and knowledge sharing among peers is prevalent across the organization.

The vast majority of people interviewed indicated that the relationships with the technical organizations are strong. Technical personnel are responsive to procurement requests, and procurement personnel are generally involved as necessary. The relationships with the legal office are much improved since the previous review. The attorney-advisors provide great support and are perceived as approachable.

Langley Procurement management is perceived as effective and supportive in the areas of communications, accessibility, and flexibility. Many of the employees from other agencies stated that management support for work/life balance and flexible work schedules was better than experienced at any other agency. Some indicated that management provided good positive and constructive feedback while others did not feel that they received sufficient feedback from management. Interest was expressed in the development of a peer awards program and the return of the Headquarters Procurement awards program.

Training opportunities are available for Headquarters-sponsored courses and courses sponsored by the Center. Langley Procurement provides a variety of internal training opportunities which address relevant procurement-related issues. The Center provides a variety of training opportunities and career development opportunities. Many people take advantage of the numerous training opportunities. Some expressed a desire for more rotational opportunities for mid-level employees both within and outside of the organization.

The majority of people interviewed expressed their ability to communicate with the Headquarters Office of Procurement when necessary. Others, however, indicated that the nature of their workload did not require the need to communicate with the Office of Procurement. Generally, people indicated that issues regarding the use of the Contract Management Module (CMM) were significantly improved since the last review. Many individuals that were new to Langley Procurement did not perceive as many problems with the system. Some indicated that although improvements to the system are still needed, it was much better than some systems used in previous organizations.

3. Technical Customer Interviews

Several contracting officer technical representatives (COTRs) were interviewed regarding the effectiveness of Langley Procurement. All had over 15 years experience at Langley and many were career Langley employees with over 30 years at the center. Most indicated that the relationship between the technical organizations and Langley Procurement is good. Many stated that the frequent change in contracting officers can sometimes cause disruption. The transition process between contracting officers needs improvement. Adjusting to the differences in the way various contracting officers interpret the regulations is somewhat time consuming.

Overall, the organization is perceived as effective. Some stated that they receive comments from segments of the task/technical manager community (individuals responsible for the day-to-day technical requirements who do not frequently interact directly with procurement personnel) that are not as positive. Langley Procurement is generally perceived as responsive to the COTR community. The Procurement ‘Outreach’

webpage provides helpful information, however, many at the center who could benefit from the information are not aware of its existence.

All COTRs interviewed received the appropriate training and currently have FAC-COTR designation. The basic COTR course provides useful information to new COTRs, however, seasoned COTRs did not find the refresher course particularly useful. Suggestions for added topics include: a discussion of lessons learned in managing tasks and sub-tasks, discussion of practical applications, and a discussion on analysis of financial management reports. More than one COTR suggested that some type of training is needed for the task/technical manager community on roles and responsibilities.

Several suggestions for improved processes and/or relationships were offered. They include: 1) more focus on the transition between contracting officers – knowledge sharing on specific contract issues and nuances, 2) less frequent contracting officers changes, 3) more focus on providing consistent guidance from procurement, 4) real examples for completing non-routine processes, 5) willingness to focus on managing risks versus eliminating risks, and 6) customer satisfaction measurement. One suggestion involved the development of a partnership environment among center organizations by conducting retreats or similar activities (i.e., procurement, center operations, and finance) to improve relationships and interactions.

CONSIDERATIONS:

Langley Procurement shall consider working with the center technical organizations and Headquarters Office of Procurement to develop a training module for task/technical managers that addresses key roles and responsibilities.

Langley Procurement shall ensure that contracting officers provide consistent guidance to the technical community.

For Headquarters

Headquarters Office of Procurement shall work with center procurement organizations to create training modules for task/technical managers. Training for task/technical managers should be addressed in the COTR training policy. The creation of a task/technical manager delegation form may be useful to ensure accountability at that level.

4. Legal Office Interviews

All three members of the Langley Business Law Team were interviewed. The Business Law Team is the component of the Langley Office of Chief Counsel responsible for reviewing procurement documents and providing legal advice on procurement related matters. One team member is new to NASA with just under two years at Langley and relatively new to the federal government with two additional years with the Department of Defense. His previous experience was in private industry. The other two team members have several years experience at Langley. The team members conduct file reviews and are also assigned to participate on source selection boards/teams. Each source selection activity at the Center has a dedicated attorney.

The relationship between Langley Procurement and the legal office has improved significantly since the previous review. The quarterly procurement and legal support meetings were recently reinstated. These

meetings, between the Langley Procurement management team, the Business Legal Team, and the Chief Counsel, are held to discuss general procurement issues and upcoming procurement actions. The recent invitation to have a Business Law Team representative participate on the selection panel for GS 15 positions within Langley Procurement was noted as a positive step towards strengthening the relationship between the two organizations.

Overall, Langley Procurement is perceived as effective from the Business Law Team perspective. The senior procurement personnel are very knowledgeable. Some of the perceived challenges for Langley Procurement include competition with the Department of Defense for experienced personnel and the need to quickly provide a base of experience for junior personnel. The quality of documents is good; however, some areas need improvement, particularly in contract administration. Again, this is attributed in part to the fact that many senior people are working source selection activities and the day-to-day work is accomplished by people with less experience and sometimes less oversight. A general recommendation from all three team members was to reinstate some level of independent file review prior to forwarding documents for legal review.

The team members also suggested that the Langley Procurement Business Management Branch share legal review input with the entire organization to help identify and address common concerns. Overall, the Business Law Team feels that documents are reviewed at the appropriate thresholds. One attorney indicated that it might be beneficial to periodically review documents below the stated review thresholds to ensure that things were properly addressed. The Business Law Team does not ordinarily review task/delivery orders under \$2M; there are a significant number of actions that fall below that threshold. The consensus is that Langley Procurement is fundamentally a good organization, and the Procurement Officer is doing a great job to increase effectiveness.

STRENGTH:

The Langley Procurement Officer is commended for its efforts to improve the relationship between procurement and legal and work more collaboratively.

CONSIDERATION:

Langley Procurement shall consider implementing some level of independent review for documents forwarded for legal review. A periodic independent review of documents below the threshold for legal review may also be beneficial.

5. Metrics Review and Documentation

Langley Procurement maximizes the use of metrics and reports generated from FPDS-NG, CMM, and SAP. Metrics goals are established to measure lead time for all procurement actions and to monitor trends on a monthly and quarterly basis throughout the procurement lifecycle (i.e., from receipt of the purchase requisition through closeout). Metrics data are collected, reviewed, analyzed, and reported to the Procurement Officer and managers. The procurement managers meet quarterly to discuss the metrics data and any necessary actions. Actions are assigned to the responsible managers and progress is tracked through completion. The data discussed during the meetings fall under four high level categories: People, Customer Satisfaction, Support of Agency Goals/Programs, and Quality. An annual Procurement Metrics

Report Card is maintained that includes the four high level metrics categories, year-end goals, and quarterly grading.

Charts with all the metrics data, including the year-end grading, are displayed in the organization's primary conference room as a reminder of the current status in the various areas. Langley Procurement continues to use metrics as a tool to meet or exceed its metric goals, for procurement planning purposes, and to meet or exceed customer needs.

STRENGTH:

Langley Procurement is commended on its continued commitment to collecting, monitoring, and analyzing metrics data and using it to operate effectively, meet its goals of providing outstanding customer support, focus on quality, and identify best practices and opportunities for improvement.

6. Procurement Career Development and Training

The findings in the area of career development and training are consistent with those of the previous review. The Procurement Officer specifically identified development and growth of personnel, including succession planning, as a primary goal of the organization with her full commitment. Based on random interviews with employees, individual development plans (IDPs) are utilized as a standard part of the supervisor/employee interaction. The employees feel that ample opportunities are provided for rotational and detail assignments, on-the-job-training, and formal training. The center-provided continuous education for procurement professionals is extensive. At least 48 different onsite training classes were provided for the procurement personnel in FY09 alone, including standard mandatory training as well as current topics of interest. Training includes courses specific to new employees as well as courses for supervisors and managers. Topics offered this year included diverse areas such as "Determining Price Reasonableness," "Legal Orientation Training," "FAC-C Overview/Training," "IDIQ/Multiple Award FAR Rules," "Incentive Contracts," "Source Selection for Services," and "Lessons Learned from NASA Protective Services Procurement Protest." The FY08 training included "Excel Level 3," "1680 Training," "Federal Contracting Regulation Update," "Emergency Response and Recovery Contracting," "Advanced Cost Principles," "Organizational Conflicts of Interest," "Recycling and Affirmative Procurement/Pollution Prevention Training", and "COTR Delegations."

An interview with the Procurement Officer confirmed that IDPs are used for all employees and that succession planning and employee development is a priority at all levels. Employees are strongly encouraged to participate in rotational training opportunities such as NASA Foundations of Influence, Relationships, Success and Teamwork (FIRST) and Leadership Development Programs.

A Master Training Matrix is maintained that includes the training and certification status of each Langley procurement employee, including degree(s) earned, business hours completed, certification levels, warrant levels, and CON training completed. The record includes details on the year each class (or equivalent) was completed. Copies of all training certificates and certifications to support the data in the matrix are maintained by the training coordinator. Personnel are also required to maintain personal training records and track continuous learning points.

All personnel meet the minimum certification requirements for their grade. Overall, approximately 82%* of the procurement personnel obtained Federal Acquisition Certification in Contracting (FAC-C) certification.

Nine individuals do not currently have FAC-C certification; two are GS-9 employees and three have FAC-C applications in process. (*These figures exclude two new hires whose records are not yet included in the database).

STRENGTHS:

Langley Procurement is commended for an outstanding job ensuring that procurement personnel are well trained and that opportunities for continuing development are available.

The Langley Procurement Training Coordinator is commended for the outstanding support provided to the procurement workforce.

7. Contracting Officer’s Technical Representative (COTR) Training and Delegations

Training

NFS Part 1842.270 which addresses COTR training requirements was updated effective January 1, 2009, to comply with the Office of Federal Procurement Policy’s (OFPP) letter dated November 26, 2007, entitled, “Implementation of FAC-COTR”. The NFS requires all COTRs and alternate COTRs to complete 40 hours of approved basic COTR training and 40 continuous learning points (CLPs) every two years after completion of the basic training.

Langley Procurement maintains a list of “Active COTRs” who are eligible to perform the COTR functions at the center. The list includes only those individuals who meet the updated mandatory training requirements and are FAC-COTR certified. FAC-COTRs were granted to all COTRs meeting the basic education requirements.

Delegation

NFS 1842.270 authorizes the appointment of a qualified Government employee to act as the representative for the Contracting Officer in managing the technical aspects of a particular contract. The NF 1634, “Contracting Officer Technical Representative (COTR) Delegation”, is used to appoint COTRs. Delegations may only be issued to individuals with the FAC-COTR.

All files reviewed included a properly executed and signed NF 1634. Langley Procurement maintains a list of individuals with current FAC-COTR designation. The information is readily available to allow contracting officers to verify eligibility.

CONSIDERATIONS:

Langley Procurement shall consider identifying the contract associated with each COTR on the active COTR list. This identification will help ensure that all active COTRs are listed by cross-checking the active contracts list. It may also help to identify training opportunities and areas of appropriate emphasis for COTR and Refresher training. **(Repeat Finding)**

Langley and Headquarters

Langley Procurement (and the Headquarters Office of Procurement) shall consider placing additional emphasis on COTR and technical manager roles and responsibilities and the risks and impacts of constructive changes, ratifications, etc. in both the basic and refresher COTR training courses.

8. Self-Assessment Program

Langley Procurement conducts self assessments every quarter. The quarterly assessments exceed the minimum requirement to conduct semi-annual reviews specified in the Headquarters Self Assessment Guide. The self-assessment reviews address several topics which include: topics identified by Headquarters Office of Procurement such UCAs, exercise of options, cost and price analysis for simplified acquisitions and procurements under 5M, simplified/commercial acquisitions, and past performance reviews. These topics were included in more than two subsequent self-assessment reviews. The most recent self assessment included a review of the following areas: sole source justifications, general file organization, CCI compliance, market research, small business set asides, synopsisizing requirements, combination synopsis/solicitation documents, quote abstracts, award decision determination, price reasonableness, required sources, debarment checks, and verification of contractor responsibility.

Topics are selected based on past self assessments and areas identified by policy and feedback from the Office of Chief Counsel (OCC). Backup data, findings, files, and attachments are forwarded to managers after completion of the assessments. The findings are tracked in the Langley Procurement internal Quarterly Metrics Reports and are disseminated across the procurement organization. Action items are created to address findings identified in the self assessment reviews during the Internal Quarterly Metrics reviews. All reports are reviewed by the Procurement Officer and forwarded to the Headquarters Office of Procurement.

A review of self assessment reports since the previous report revealed that the assessments continually focus on many of the same topics. Self assessments are generally conducted by the same individuals within the Business Management Office. Review team members are not solicited outside that organization.

STRENGTH:

Langley Procurement is commended for its proactive efforts conducting quarterly self-assessments which exceed the requirement for semi-annual reviews.

CONSIDERATIONS:

Langley Procurement shall consider selecting a broader range of topics across the assessment to minimize the potential for system problems in areas not addressed. The current approach used to select topics may not be as effective in detecting potential systemic problems if a broader range of topics is not selected.

Langley Procurement shall consider developing a team of reviewers led by a Business Management Office representative that also includes members from the various procurement offices to conduct the self assessments. The benefits of this approach are to provide a “fresh set of eyes” from review to review, allow other procurement personnel the experience of analyzing the files, and help alleviate the amount of work currently performed by one person.

9. Internal Policies and Procedures

The Langley Management System (LMS) provides access to the Center's Policy Directives and Procedures. The information is well structured by organizational offices and by groups such as Center Procedures, Organizational Documents, Policy Directives, Forms, and Procedural requirements. Other informational resources are provided by the Langley Procurement Outreach website which is tailored to the procurement customer by providing excellent customer service in the form of instructions, purchase requisition status, identification of the points of contact, and means to accept customer feedback. The procurement website called "The Link" is directed to procurement personnel and provides a single portal to resources required for the execution of contractual actions. It includes easy access to policy, procedures, training, lessons learned, templates, and procurement systems.

A verification of the integrity and effectiveness of Langley's policies and procedures was performed as part of this review. This verification confirmed that Langley's policies are compliant with regulations and do not unnecessarily duplicate regulation. The documents reviewed include the LMS-CP-4501 (Procurement Process Overview), LMS-CP-4505 (Purchase Requisition (PR) Initiation/Modification/Cancellation and Supporting Documentation), LMS-OP-4531 (Closeout of Procurement Files), and LMS-OP-4538 (Buyer's Guide for Simplified Acquisitions). The information and decision flow is logical; the selected samples contained quality instructional documents that were current, accurate, concise, and informative. All references to resources and other center or operational procedures are accurate.

Knowledge sharing is promoted through information made accessible to both customers who initiate the procurement requisitions and to the procurement community. The information is current, adds value, and is presented in various forms such as tutorials, peer training presentations, or lessons learned (as provided by the SEB teams after board evaluations are complete).

The Langley Procurement Outreach site contains an on-line electronic customer feedback form that allows customers to provide candid and useful input regarding the effectiveness of Langley Procurement and procurement processes. Langley Procurement conducts follow up efforts on the feedback provided and tracks the submissions in their metrics and goal reporting system. Actions are also identified and addressed by the procurement managers.

STRENGTHS:

Langley Procurement is commended for the creation and maintenance of the 'Outreach' website and the Procurement Initiator's Guide (LPR 500.2) as information resources for its customer community. The Initiator's Guide is a very comprehensive document that clearly explains the procurement process and responsibilities of each member of the acquisition process to the Langley community. The manner in which Langley Procurement focuses on its customers by providing quality information and access to resources is identified as an agency best practice. **(Best Practice)**

Langley Procurement is commended for providing additional guidance related to contract file organization through the LMS. This guidance includes examples of the type of documentation necessary to meet the content requirements of the file. It is organized consistent with the tabbing format in NF 1098. The guidance which provides a useful tool for procurement personnel to maintain consistency in their files is identified as an agency best practice. **(Best Practice)**

CONSIDERATIONS:

Langley Procurement shall consider incorporating the AS9100 requirements that affect the procurement organization into the Procurement Initiator's Guide (LPR500.2). This will ensure consistency across policies and procedures.

Langley Procurement shall consider including hyperlinks in their policy and procedure documents to facilitate easier access to related procedures and forms in the LMS.

Langley Procurement shall consider incorporating the review and approval requirements from other organizations such as the Office of Chief Counsel (OCC), Industrial Property Office, safety, environmental, etc. into the review and approval matrixes found in LMS-OP-4537 (Review and Execution of Procurement Documents) instead of referencing the unique procedures. This would eliminate the need for individuals to access multiple documents in different locations to ensure that the appropriate reviews and approvals are obtained.

WEAKNESS:

Langley Procurement shall update its review and approval matrix for JOFOCs/sole source justifications in LMS-OP-4537 (Review and Execution of Procurement Documents) to include clear instructions regarding approvals for sole source justifications for simplified acquisitions consistent with FAR 13.106-1(b) (1). The current guidance contains a note "All sole source justifications for simplified acquisition procurements between \$25K and \$100K shall be approved by either the PR Screener or the cognizant Branch Head or Assistant..." is misleading and inconsistent with the FAR requirements.

SECTION III

PRE-AWARD PROCESSES AND DOCUMENTATION

1. Master Buy Plan Records

Master Buy Plan (MBP) and Baseline Performance Review (BPR) documents were reviewed for timeliness, accuracy, and completeness of data. MBPs were also reviewed for compliance with NFS 1807.71. Each file reviewed that met the requirements of NFS 1807.71 contained a record in the MBP database. The contract files reviewed generally matched the data contained in each corresponding MBP database record. MBP and BPR data was generally timely, complete, and accurate with some exceptions. Though not unique to any one center, Langley falls short of consistently keeping current procurement milestones in the MBP database and submitting the monthly BPR acquisition spreadsheet by the due date established by the Headquarters Office of Procurement. The Headquarters Office of Procurement and the Centers are transitioning to a new MBP database system. The developers of the new database are currently establishing a system that will download awarded records to the new BPR Post-Award system created by the Office of the Chief Engineer. The automatic download capability is expected to eliminate the requirement for Centers to submit monthly BPR reports regarding contract award data to the Office of Procurement.

CONSIDERATION

Langley Procurement shall ensure that data is entered into the MBP database consistently, timely, and accurately and is updated as changes occur, particularly to the procurement milestone schedule.

2. Justifications for Other than Full and Open Competition (JOFOCs)

Files were reviewed for compliance with FAR 6.3 and NFS 1806.3. Dollar values ranged from \$173K to a maximum of \$36M. All files reviewed used the statutory authority (c) (1) - only one responsible source as the basis for the sole source action. The contract files contained all of the information required by FAR 6.303-2 and specifically followed the FAR content listing from FAR 6.303-2(a)(1) through (a)(12). Each determination provided sufficient rationale and was reviewed and approved at the appropriate levels to include legal review and the Competition Advocate, when applicable.

All files were well-documented and contained sufficient rationale to support the sole source and cited the appropriate authority. The files reviewed also adequately addressed market research. Most files provided a very detailed rationale for the contractor's unique capabilities.

This review also included a comparison of the justification approval dates to the posting and response due dates of the synopses issued pursuant to FAR 5.2. The majority of the justifications were approved after the synopses response times elapsed and any expressions of interest were resolved and included in the file documentation.

A few justifications were approved before issuance of the synopses. Based on the flexibility allowed by FAR 6.303-2(a)(6), the actions included a statement that a synopsis “will be” publicized as required by FAR 5.2. The synopses for these actions were subsequently posted; however, it was not always evident in the file documentation that any expressions of interest were received before the synopses response times elapsed. Additionally, it was not evident that any of the justifications were posted via Electronic Posting System after contract award in accordance with NFS 1805.303.

CONSIDERATION:

Langley Procurement shall ensure that the sole source justifications include the date of the synopsis and addresses any expressions of interest.

3. Deviations and Waivers

Deviation and waiver requests were reviewed for compliance with the FAR and NFS requirements. The requests were compliant with applicable procurement regulations and were appropriately documented. The requests required very little clarification from the Headquarters Office of Procurement. The NFS 1832.702-70 (c) (2) (f), requires the Procurement Officer to maintain a record of all approvals during the fiscal year. The approvals are maintained in a central file maintained by the Procurement Officer.

4. Acquisition Planning

Contract files were reviewed for the presence of adequate market research documentation, coordination of acquisitions with customers, small business set aside considerations, compliance with Consolidated Contract Initiative (CCI), Procurement Strategy Meetings, and other relevant acquisition planning documentation in accordance with FAR Part 7 and NFS Part 1807. Langley Procurement addresses acquisition planning by embedding coordinating procedures in their policies, procedures, and outreach websites. Acquisition planning is specifically addressed in LMS-CP-4504 (Market Research for Procurements), Procurement Initiator’s Guide (LPR500.2), and on Langley’s Procurement Outreach website.

The files were all documented with adequate market research appropriate to the circumstances of the purchase. Files that required procurement strategy meetings contained the appropriate documentation consistent with Langley internal procedures. Files that did not require procurement strategy meetings or written acquisition plans in accordance with NFS Part 1807.103 followed internal procedures and/or included adequate market research. All actions were consistent with regulations and appropriate for the particular acquisitions.

5. Source Selection Process

Files were reviewed for compliance with FAR 15.3 and NFS 1815.3 for solicitations and NFS 1835.016-71 for NASA Research Announcements (NRAs). Files were also reviewed to examine general procedures used by Langley Procurement in source selection. All files generally complied with FAR and NFS requirements. The contract files reflect a vigorous process for screening Source Evaluation Board (SEB) and Source Evaluation Team (SET) members through the Office of Chief Counsel, the Office of Inspector General, and the Office of

Security and Program Protection. The process ensures that board members have no conflict of interest, and criminal records, and are not otherwise deemed security risks. The files also contain appointment letters for voting and non-voting members from the Board Chairman and the Source Selection Official (SSO). Mission suitability, past performance, and cost were consistently used as evaluation factors in solicitations. NRA proposals were evaluated on programmatic and scientific merit, and the selected proposals were used as the basis for negotiating contracts with the selected organization. Evaluation plans were generated in some cases. All contract files reviewed followed the evaluation criteria stated in the solicitations or NRAs. The files contained sufficient cost realism analysis. DCAA findings were consistently incorporated. Meaningful discussions were held when appropriate. Competitive range determinations were sound and well documented. SEB and SET findings were comprehensive and well documented throughout the process.

Some issues were identified with regard to source selection statements. NFS 1815.370 requires the Office of Chief Counsel at the Center to prepare the source selection statements. One contract file contained no evidence of Chief Counsel's involvement in the preparation of the source selection statement. Another file contained evidence of the Chief Counsel's involvement in the preparation of the source selection statement, however, the statement was not properly signed.

A source selection statement generated from NRA selections did not capture conditional changes requested for the selected proposals. File documentation includes concerns expressed by the Office of Chief Counsel regarding the absence of the discussion of the changes in the selection statement. These concerns were raised during a meeting between the Chief Counsel, the contracting officer, and the Source Selection Authority after the issuance of the selection statement. The contracting officer subsequently wrote a memo to the file documenting the changes. The files contained numerous marked-up versions of the selection statements with legal review comments. It was often difficult to determine the content of the final version in the file.

The Procurement Officer recently created the position of SEB advisor within the procurement organization. The newly appointed SEB advisor was interviewed during the review and highlighted the difficulty obtaining volunteers to serve on SEB/SETs as a particular challenge. Plans are underway to institute new source selection procedures, provide incentives for board member participation, and capture lessons learned to improve the process.

STRENGTH:

Langley Procurement is commended for the quality and integrity of source evaluations conducted by the SEB/SET and for consistently meeting FAR and NFS source selection requirements.

CONSIDERATIONS:

Langley Procurement shall ensure that source selection statements capture conditional changes to proposals that are selected under the NRA process, ensure that selection statements are signed by the Source Selection Authority, and ensure that Chief Counsel's participation in the preparation of the selection statement is documented in the files.

Langley Procurement shall ensure that the disposition of changes/revisions made by Chief Counsel to the draft version(s) of the selection statements is clearly documented in the contract file.

6. Contractor Safety Requirements

Several contract files were reviewed to verify compliance with NFS 1823.70, entitled "Safety and Health". All contracts reviewed required either NFS Clause 1852.223-70 "Safety and Health" or NFS Clause 1852.223-72 "Safety and Health (Short Form)" depending upon the input received from the technical organization and the Safety and Facility Assurance Branch (SFAB).

Every contract file reviewed included the required SFAB concurrence by email. Langley procedures allow documentation of SFAB concurrence by email or face-to-face meetings. Overall, files reviewed contained the required safety and health clauses and, if applicable, the approved contractor's safety and health plan.

CONSIDERATION:

Langley Procurement shall consider the utilization of a standard form to document the required Safety and Facility Assurance Branch review/concurrence of contract safety requirements. (i.e., GSFC 23-59 - Initiator's Acquisition Safety Checklist)

7. Government Furnished Property

Files were reviewed for compliance with FAR 45 and NFS 1845. Contract actions are generally coordinated with the Industrial Property Office. The files contained numerous review comments from the Industrial Property Office to incorporate basic property clauses. The majority of interactions between the Industrial Property Office and Langley Procurement are extremely positive.

The Industrial Property Officer reported significant problems and delays in obtaining acceptance of contracting officer property administration delegations from Defense Contract Management Agency (DCMA). Multiple requests were made to the contracting officers on multiple contracts to obtain the required acceptances. The DCMA acceptance on one contract was received a year after contract award during which time the property at the contractor's facility was not administered.

STRENGTH:

Langley Procurement is commended for its utilization of the center unique clause "H.22, Option to Purchase Contractor Owned Vehicles and Equipment" on its ROME contract. The incorporation of this clause provides a cost-effective, simple to implement, and highly creative tool which allows the Government to make a unilateral decision at contract closeout regarding the disposition of capitalized equipment used in performance of the contract. The utilization of such a clause is identified as an agency best practice. **(Best Practice)**

CONSIDERATION:

Langley Procurement shall consider revising the internal instructions LMS-OP-4522, "Delegation of CO Responsibilities," to remind contracting officers of their responsibility to ensure that delegations are accepted and implemented in a timely manner.

WEAKNESS:

Langley Procurement shall ensure that contracting officers follow up on untimely DCMA acceptance of delegations. It is noted that the lack of responsiveness from DCMA is not the contracting officer's fault; however, it is the contracting officer's responsibility to follow up with DCMA.

SECTION IV

POST-AWARD PROCESSES AND DOCUMENTATION

1. Evaluation of Contractor Performance

Files and entries into the Past Performance Database (PPDB) were reviewed for compliance with FAR 42.15 and NFS 1842.1502. Contractor evaluations are maintained in the contract files utilizing the NF 1680 "Evaluation of Contractor Performance". Most of the evaluations reviewed included good quality narrative support and detail. The quality of the narrative discussions reflects an improvement from the previous review. Most reports did not document the discussion of evaluations with the contractor (date and participants) as required by NFS 1842.1503. The majority of the NF 1680's in the contract files were signed and dated by the contracting officer, and there were corresponding entries in the PPDB. A few of the PPDB entries were not documented in the contract files with a signed and dated copy of the NF 1680.

A PPDB delinquency report of evaluations past due in the last twelve months was reviewed. Thirty-three (33) records were found in the report. A few of these reports were drafted but not finalized in the system. One contract appeared both on the delinquency report and on the completed status report. Additional research revealed that an error on the contract's period of performance caused the reporting duplication.

CONSIDERATION:

Langley Procurement shall remind contracting officers to routinely review the PPDB delinquency report and conduct evaluations in a timely manner in accordance with NFS 1842.1502

2. Pre and Post Negotiation Documentation

Pre-Negotiation Documentation (PPM)

Files were reviewed for compliance with the regulations and guidance for preparing pre-negotiation positions memoranda (PPMs) provided in FAR 15.406 and NFS 1815.406. The PPMs reviewed followed the Virtual Procurement Office (VPO) template guidelines. Langley Procurement operating procedure LMS-OP-4537, requires review by the Pre-Negotiation Procurement Review Committee (PPRC) of all memos over \$10M. Members of the PPRC include the contracting officer, Procurement Officer or Deputy Procurement Officer (as Chairperson), cognizant Branch Head, Office of Chief Counsel representative, cost/price analyst, technical representative, and contract specialist (as Recorder). The PPRC reviews the PPM, cost/price memorandum, technical analysis memorandum, field pricing/DCAA Report, if applicable, contractor's business/cost proposal, and the proposed contract or supplemental agreement. The PPRC meeting provides an opportunity for real time discussions of issues between all the key reviewers. The PPRC meeting is summarized in a PPRC Report and included in the contract file.

The PPM's generally followed the template provided in VPO. However, areas were not always covered in detail. Numerous files contained weak cost/price analysis. (Additional discussion is included in Section V.1. Cost/Price Analysis). Also NFS 1815.406-170(d) requires a parallel tabulation, by element of cost and

profit/fee, of the contractor's proposal and the Government's negotiation objective. Not all PPMs contained the required parallel tabulation. All files reviewed included a statement regarding the status of the contractor's systems, if applicable.

Post-Negotiation Documentation

Files were reviewed for compliance with FAR 15.406 and NFS 1815.406. The majority of the files reviewed contained documented Post-Negotiation Memoranda (PNMs) that are in compliance with the regulations and the VPO template guidelines. Files contained timely certificates of current cost and pricing data when required. The PNMs also contained a statement regarding the contracting officer's reliance on cost and pricing data when such data is obtained for a procurement action. However, the PPMs did not address receipt of a small business subcontracting plan when applicable.

CONSIDERATIONS:

Langley Procurement shall ensure that the receipt/approval of "Small Business Subcontracting Plans" is addressed in the PPM when applicable.

Langley Procurement shall consider requiring approval of negotiation documentation one level above the contracting officer when the contracting officer is responsible for development of the documentation and conducts the actual negotiations.

3. Technical Evaluations

Technical evaluations were reviewed to determine whether the appropriate level of assessment was used to ensure compliance with FAR 15.404 and NFS 1815.404. The review included technical evaluations for contracts and contract changes. Some evaluations reviewed contained excellent analysis and documentation while others lacked detailed analysis and focused more on price reasonableness than the proposed elements of cost.

A review of several large dollar value procurements contained well documented technical evaluations. One file contained evidence that the contracting officer requested clarification from the evaluator several times to ensure the technical evaluation addressed the elements of cost and provided a sound basis for the technical evaluator's determination. The majority of small dollar value contracts reviewed did not contain the same quality documentation. Several of the files reviewed did not address all aspects of the contractor's proposal such as material costs, subcontract costs, or direct labor hours. Some of the technical evaluations were completed on a self-generated form to document the findings. The technical evaluator is required to address all aspects of the contractor's proposal on the form. The form includes an area to document the basis for reasonableness determinations for each element of cost. The files reviewed that contained the self-generated form did not provide the bases for reasonableness determinations for the relevant elements of cost. The files did not contain evidence of attempts by contracting officers/contract specialists to follow up with the technical evaluators to revise inadequate evaluations.

CONSIDERATION:

Langley Procurement shall provide sufficient guidance to contracting officers and technical evaluators to ensure that technical evaluations contain proper analysis of proposals, address the relevant elements of cost, and ensure that proper follow up is conducted to clarify unresolved issues.

4. Undefined Contract Actions (UCAs)

Recently issued UCAs were reviewed for regulatory compliance and compliance with the 180-day definitization requirement. Information from the monthly NASA Headquarters UCA report was used to validate status. Very few UCAs were issued by Langley Procurement during the last year. All were definitized within the 180 day timeline. UCAs are reported to Headquarters Office of Procurement in a timely manner. The contract files were well documented and contained funding profiles; all actions required to issue the UCA were compliant with the regulations.

STRENGTH:

Langley Procurement is commended for minimizing the use of UCAs thereby minimizing the risk to the government on contract changes.

5. Competition under Multiple Award Task and Delivery Order Contracts

Multiple award and task/delivery order contracts were reviewed for compliance with the FAR and NFS requirements. Langley Procurement utilizes a variety of contract approaches such as multiple award and single award IDIQ contracts and multiple and single award Blanket Purchase Agreements (BPAs) created under GSA Schedule contracts. All contracts reviewed were awarded in accordance with regulations. Orders were competed appropriately. Sole source justifications and single award determinations were documented with sufficient rationale.

Solicitations for task/delivery orders provided fair opportunity and maximized competition. The request for quotation was issued to all offerors available under the IDIQ/BPA for one contract reviewed. Two or more BPAs were combined resulting in the issuance of the request for quotation to a larger pool of offerors in another instance. The justifications were all documented with adequate rationale. Some single award files contained evidence of attempted competition; however, only one proposal was received.

6. Contract Closeout Process and Unliquidated Obligations

Closeout

Contract files and center procedures were reviewed for compliance with FAR 4.804 and NFS 1804.804. Approximately 700 contracts are physically complete and ready for closeout. Approximately 500 of that total are in the possession of the closeout contractor, Legacy Resources, for processing. Langley Procurement conducts 'stand down' days at least once a year to expedite the closeout process. The files reviewed contained all of the appropriate closeout documentation.

Legacy Resources tracks a variety of information regarding contract closeout activity. Monthly reports are submitted to the closeout contracting officer. These reports track the number of new contracts received, the number of contracts closed, transferred contracts, remaining open contracts, and the amount of de-obligations by contract type. Information on the amount of time required to closeout contracts and reasons for delays is also tracked. Detailed information regarding each contract is maintained and updated on a monthly basis. Improvement in the ratio of closed contracts versus newly received contracts was noted for the three months prior to this review.

Unliquidated Obligations (ULOs)

A ULO team consisting of representatives from Langley Procurement, the Langley Office of the Chief Financial Officer (OCFO), Legacy Resources, and CONITS (the contractor providing systems support) meets twice a month to discuss the status of ULOs and other issues regarding closeout. The OCFO issues quarterly reports to track activities. Langley Procurement managers receive a list of expired contracts on a monthly basis to monitor the status of ULOs and physically complete contracts. Legacy Resources provides a list of the top ten ULOs at the center to Langley Procurement with the monthly closeout reports. The report identifies the contract number, contractor, type of contract, amount of the ULO, and reasons for delays in de-obligating funds.

7. Award/Incentive Fee Contract Evaluation

Several contract files were reviewed to ensure that award fee evaluations were compliant with applicable clauses and regulations, followed the applicable award fee plans, contained a Fee Determination Official (FDO) determination, and used metrics in the evaluation whenever possible. All award fee and award term files reviewed included the contractor self-evaluations and appropriate technical, business, and Performance Evaluation Board (PEB) reports. All but one file included the FDO's signed decision. This file included an email from the COTR documenting a meeting with the FDO and the subsequent decision. The file contained no documentation confirming this decision from the FDO, signed or unsigned.

One award fee evaluation included a Technical Performance factor with a weight of 40%. Technical performance is rated in two ways: 1) customer adjective ratings which range from excellent to poor with the appropriate numerical rating assigned and 2) adjective metrics which include exceed, meet, or fail. A score of 100% is assigned for exceeding the requirements, 90% for satisfactory or meeting the requirements, and 0% for failing to meet the requirements. The assignment of 90% for satisfactory performance does not comply with the scoring guidelines defined in Exhibit A of the award fee plan in the contract which assigns performance points of 61-70 for satisfactory performance. The assignment of 90 points for satisfactory performance inflates the contractor's overall rating and results in paying the contractor more award fee than earned. The disparity in the evaluation and rating was found in only one contract. Evaluations reviewed for all other award fee/term contracts were conducted in accordance the award fee plans.

CONSIDERATIONS:

Langley Procurement shall ensure that assigned award fee ratings are consistent with the scoring guidelines included in the award fee plan.

Langley Procurement shall ensure all files contain a signed FDO award fee determination and any applicable supporting evidence of the FDO decision.

8. Exercise of Options

Files were reviewed for compliance with FAR 17.207 and NSF 1817.207. All files reviewed contained the required FAR Clause 52.217-9, "Options to extend the term of the contract." Option exercise determinations and modifications generally contained many of the FAR and NFS requirements. However, several inconsistencies were noted regarding compliance to the regulations. None of the files reviewed contained verification that the contractor was not listed in the Excluded Parties List System (EPLS) in accordance with FAR 17.207 c (5). Options exercised on cost reimbursement contracts did not specify an estimated cost for the option period in accordance with NFS 1817.207 (f). The option modifications addressed incremental funding actions and increases to the contract value but did not specifically state the estimated cost for the option period. The option determinations did not address estimated cost as required.

The files contained comments from the Office of Chief Counsel regarding inconsistencies or omissions. These included incorrect FAR clause references, unsigned notices to exercise options, incorrectly dated option determinations and findings, and in one case the absence of the notice to exercise the option. The rationale for option exercise was based on the limited amount of time between the initial award; the option period was utilized in some instances. The files contained no evidence that the contracting officer considered such factors as market stability and comparison of the time since award with the usual duration of contracts for such supplies or services. One option was exercised prior to the expiration of the previous period thus creating overlapping contract performance periods. The early exercise the option was outside of the contract stated 60-day period.

WEAKNESS:

Langley Procurement shall ensure that the FAR and NFS requirements regarding the exercise of options are met. Implementation of internal procedures, training, and/or the creation and use of a template may ensure that requirements are met consistently.

9. Subcontract Consent

Contracts were reviewed for compliance with FAR 44, 52.244-2, and NFS 1844.2. One contract required the prime contractor to request consent to subcontract for individual task orders. The price negotiation memorandum acknowledged this requirement; the contractor provided all required documentation, but the file did not contain the contracting officer's evaluation of the contractor's request as required by the FAR.

CONSIDERATION:

Langley Procurement shall ensure that the contracting officer's evaluation of contractor's request for consent to subcontract is conducted and documented in the file.

10. Interagency Agreements

Interagency agreements were reviewed for compliance with the requirements in FAR 17.5 and NFS 1817.70. The files reviewed contain the required determination and findings providing justification for the use of an

Interagency Agreement. Legal office reviews were conducted and documented in the files as specified by NFS 1817.7002(g).

Langley Procurement developed a MIPR Checklist and an 'Interagency Acquisition Questionnaire'. The questionnaire contains ten questions that assist procurement personnel in preparation of the determination and findings document. Not all files provided adequate response to the questionnaire and some were annotated with the comment "see enclosed"; however, no corresponding enclosures were present in the file. Generally, the files did not contain a cost-breakdown or proposed costs for the effort. There was no evidence in the files that price reasonableness analyses were conducted.

Many files did not include the checklist and it was difficult to locate the documentation in those files. A signed copy of the DD Form 448-2, "Acceptance of MIPR" was missing from some of the files. Statements of work were not attached to all award documents.

STRENGTH:

Langley Procurement is commended for the development of the MIPR Checklist and 'Interagency Acquisition Questionnaire'. These can be useful tools in the development of the determination and findings documents, award, and administration of Interagency Agreements.

WEAKNESS:

Langley Procurement shall ensure that the appropriate cost/price analysis is conducted to determine price reasonableness.

SECTION V

PRICING/FINANCIAL/AUDITS

1. Cost/Price Analysis and Profit/Fee Determination

Files were reviewed for compliance with FAR 15.4 and NFS 1815.4. Cost/price analysis is conducted by price analysts and contracting officers/contract specialists. The file review revealed that the analyses conducted by the price analysts are very comprehensive, address all major elements of cost, and are well documented. Generally, the analyses conducted by the contracting officers/contract specialists lack a thorough evaluation of all elements of cost. The files contained cost or pricing data when required and appropriately executed Certificates of Current Cost or Pricing Data were provided where applicable.

One file reviewed contained a comparison of the proposed rates with GSA schedule rates since DCAA recommended rates were not available. However, different labor categories were used in the comparison. The analysis of the contractor's proposal and price reasonableness determination was completely missing from another file reviewed.

Guidance for determining profit or fee objectives and the required use of NF 634, "Structured Approach for Profit/Fee Objective" are provided in NFS 1815.404. Contract files were reviewed for the appropriate use of and compliance with the requirements for NF 634. Rationale for assigning weights outside the normal values was not provided by the contracting officer in the majority of files reviewed. The contractor's proposed fee was lower than the NF 634 recommended fee in other files reviewed. The lower fee was accepted as fair and reasonable without any discussion regarding the rationale for acceptance in each instance.

Langley Procurement sponsored two training sessions entitled "Contractor Cost Proposal Evaluation". Procurement personnel with all ranges of experience attended these sessions.

CONSIDERATION:

Langley Procurement shall consider offering the training session on "Contractor Cost Proposal Evaluation" to all contracting officers and contract specialists in the organization.

WEAKNESS:

Langley Procurement shall ensure that the performance risk assessment and rationale for the selection of the Assigned Weighting, Assigned Value, Weight Range, and Weight designated percentages is documented when completing the NF 634 and the corresponding negotiation memoranda. **(Repeat finding from the two previous reviews)**

2. DCAA/OIG Audit Follow-Up

NFS 1842.73 Audit Tracking and Resolution implements OMB Circulars A-50 and A-133 and requires contracting officers to resolve reportable audit issues in a timely manner. The criteria for reportable audits includes: (1) management control issues and/or (2) \$10,000 or more in questioned costs.

Langley Procurement developed a process to ensure quarterly follow up of audit findings until findings are resolved. There were no open reportable audits at this time of the review.

3. Financial Management Reporting

Contract files were reviewed for compliance with NFS 1842.72 -- NASA Contractor Financial Management Reporting. All contracts reviewed met the contract type, period of performance, and dollar thresholds requirements. Contractor reporting requirements with specific data and narrative information were included in some of the contracts reviewed. All contracts contained monthly reporting requirements (533M) and corresponding reports. The quarterly reporting requirements (533Q) and corresponding reports were found in some but not all applicable contracts. Task order and support service contracts generally did not contain 533Q requirements or reports. The files did not contain the necessary waivers for the quarterly reporting requirements. Discussions with procurement personnel indicated that the necessary waivers were obtained for the support service and task order contracts.

Financial management reports were submitted on consistent basis; however, submissions were not always timely. Collaboration between the resources, project, and procurement personnel to review, analyze, resolve issues with the contractor and explain significant variances is evident in the file documentation. However, not all contracts contained narrative explanations for variances that exceeded the normal thresholds. Some files contained notes from the resources personnel requesting that the contracting officer obtain additional information from the contractor to explain the variances.

The Office of the Chief Financial Officer (OCFO) issued a memo dated May 2009 that established variance standards/criteria for financial management reporting. The memo also solicited assistance from contracting officers to improve overall contractor variance performance.

CONSIDERATIONS:

Langley Procurement shall ensure that waivers to the quarterly financial reporting requirements are executed and documented in the file when applicable.

Langley Procurement shall consider establishing variance standards/criteria consistent with OCFO standards for analyzing financial management reports to maintain consistency and establish standard criteria for requiring corrective actions from the contractors to improve variance performance. Any actions taken should be communicated to the OCFO.

Langley Procurement shall partner with the OCFO to ensure that contractors understand the process for reporting the information in column 8a "Estimated cost/hours to complete" of the 533M report.

SECTION VI

OTHER ISSUES

1. Simplified/Commercial Acquisitions

The review of simplified/commercial acquisitions included topics such as required documentation, appropriate application of simplified acquisition procedures used for solicitation/evaluation/award of a commercial item, adequate market research, small business set asides, public display and synopsis requirements, and determination that the proposed prices were fair and reasonable.

The files reviewed are generally adequate. Most files reviewed followed the applicable regulations and internal Langley Procurement policies and procedures. Most files were well organized and tabbed according to NF 1098 "Checklist for Contract Award File Content", Langley Procurement's simplified acquisition, or SEWP/GSA checklists. A weakness identified in the previous review regarding improper invoice approval by the contracting officer was also reviewed. There was no evidence in the files of repeat findings in this area. This may be partially attributed to the recent transition to the centralized invoice process at the NASA Shared Services Center (NSSC). This process is adequately documented in the Langley internal policy LMS-OP-4529 "Invoice Review and Approval" process.

Some instances of inadequate documentation were found. Examples include two files with weak price reasonableness determinations and one file with no evidence of small business concurrence on the set-aside recommendation. The files did not contain the required contracting officer determination for sole source acquisitions when applicable.

CONSIDERATION:

Langley Procurement shall consider updating the internal policy regarding the Review and Approval of sole source justifications to include a reference to the FAR 13.106-1(b)(1) requirements.

WEAKNESS:

Langley Procurement shall ensure that the contracting officer's determinations for sole source acquisitions are included in the files in accordance with FAR 13.106-1(b) (1).

2. Small Business Innovative Research (SBIR) Awards

The review of the SBIR files included examples from each category of the Phase II and III awards. All files reviewed included a Langley Form P115, "Determination of Responsibility" signed by the contracting officer. All SBIR awards reviewed appeared to comply with the limitation on subcontracting requirements. All SBIR awards included the appropriate clauses required by FAR and NFS.

The technical evaluations did not address the basis for determining the costs such as the reasonableness of proposed material costs, skill mix, and labor hours. One file contained references to an extension of the contract period of performance from 24 months to 30 months. The corresponding contract modification reflected a change to the period of performance, but no other documentation supporting the extension was included in the file. The modification was issued after the expiration of the original period of performance. A subsequent modification in this same contract made changes to the required deliverables and included a delivery date that was not consistent with the contract period of performance. No additional information was included in the file addressing the rationale for the changes and the agreement by the technical monitor to the new deliverables. The modification was dated 90 days after the required date for shipment of the deliverables.

CONSIDERATION:

Langley Procurement shall ensure all files include the appropriate documentation including all modifications and ensure that all extensions to the period of performance are issued in a timely manner.

3. Purchase Card Program

The review focused on internal controls, training, number of card holders, SAP bankcard module automated system, monthly reconciliation, delegations exceeding \$3,000, violations, and limits (individual/ monthly) placed on card holders pursuant to the government bankcard regulations. All current purchase card policies, procedures, and records regarding the purchase card program are well managed and documented.

There are currently a total of 367 purchase cardholders and 115 approving officials at Langley. The number of purchase cardholders decreased slightly since the last review. Each purchase cardholder is assigned an approving official and an alternate approving official.

The same Center Purchase Card Program Coordinator (CAPC) has managed the purchase card program since 2006. This continuity provides invaluable corporate knowledge and consistency with the purchase card program processes. The CAPC and alternate are both knowledgeable of the recently updated monitoring and administration duties outlined in the NASA Purchase Card Internal Control and Audit Plan.

All purchase cardholders were issued new cards from the new provider, JPMorgan Chase, in November 2008. Langley's purchase card program earned the AS9100 standard accreditation which is a component of the ISO 9001 standards in accordance with the NASA Quality Assurance Program Policy, NPD 8730.5.

A webpage with the procedures and guidelines for the purchase card program is linked to the Langley internal website. The purchase card program webpage provides links to the following center policies: LMS-CP-4545, entitled "Obtaining a Purchase Card" and LMS-CP-4540, entitled "Procurement Purchase Card". The latter document serves as a handbook for cardholders and approving officials. The handbook is comprehensive and includes an instructional flow-chart for the procedures, policies, and regulations. Forms, audit guidance, frequently asked questions, etc. are also available on the webpage.

All cardholders and approving officials completed the required training in SATERN prior to making purchases or approving any transactions. The CAPC monitors and tracks existing training records/requirements

through an Excel database. PIC 07-10 "Purchase Card Account Management" requires recertification of all cardholders and approving officials every three (3) years. All existing cardholders and approving officials completed the required training in 2007. Refresher training for the center is planned for August 2010. Purchase card training is implemented and monitored within SATERN. The CAPC maintains a copy of the training certificates and delegation letters for each purchase cardholder.

A limited number of cardholders are authorized to place individual purchases above the micro purchase threshold. Six warranted contracting officers/small purchase agents within Langley Procurement are authorized to make purchases up to \$100K. Nine (9) non-warranted cardholders are authorized to make purchases up to \$5K for use under blanket purchase agreements. Two other individuals are authorized to make emergency purchases only: 1) the Director of the Health & Safety office is authorized to make emergency purchases up to \$5K and 2) the CAPC is authorized to make emergency purchases up to \$10K. All cardholders with increased authority completed the necessary Simplified Acquisition purchase card training and received delegation letters from the Procurement Officer.

The CAPC performs a random overview of the system to identify any inappropriate purchase card activities during the monthly reconciliation process performed in the SAP Bankcard module. The CAPC generates both weekly and monthly reports to identify questionable and restricted purchases. Desk audits, transaction auditing, and AS9100 auditing is conducted to help identify purchase card violations. The CAPC maintains a purchase card offense list. Any violators are held accountable for the purchases and the approving official/supervisor is notified of the violation(s). All purchase card privileges are revoked when appropriate and recertification is required.

Convenience Checks:

Convenience checks may only be issued by contracting officers authorized within the scope of their warrant. Langley utilizes convenience checks for specific purchases such as sole source circumstances where the vendor does not accept a purchase card. JPMorgan Chase charges a direct fee to Langley equivalent to 2.0% of the purchase price for maintenance of the convenience check account. The convenience check owners must maintain a log that contains a duplicate copy of any written check. The checks are used to pay for requirements up to \$25,000. Convenience check policies and procedures are followed appropriately.

STRENGTH:

The Langley CAPC is commended for an outstanding effort of successfully managing a program of this magnitude, particularly during the recent transition to the new purchase card contractor and the successful AS9100 accreditation process.

4. Construction and Architect and Engineer (A&E) Services Contracts

Langley Procurement awards and administers a relatively small number of construction contracts. These contracts are managed by a very small staff including a contracting officer who reports directly to the technical organization rather than Langley Procurement. The construction projects appear well-managed based on extensive experience of the construction personnel. However, some concerns were identified in the areas of performance, quality, cost, or schedule.

The contract files reviewed included excellent negotiation memoranda indicating thorough analysis of the cost/price in relation to the particular facts of the proposed effort. A structured fee approach is used to assess profit as required. Supporting rationale demonstrates a thorough understanding of the proposed effort, the role of the major subcontractor(s), risk, and other factors. The negotiation memoranda provide a clear but concise record documenting extensive discussions and negotiations involving clarification of requirements as well as proposed resources. Differences between the Government estimate and the proposal were analyzed and resolved, with supporting details and rationale.

The specifications in various sections of the construction contracts reviewed require the contractor to “coordinate” with other contractors, inspectors, and other personnel. The contracts did not adequately define the points of contact or the nature of the coordination in many cases, and neither the contracting officer nor the COTR are included in the communication.

Electronic versions of the contract invoices are downloaded and included in the closeout files; however, the original signed and certified invoices are maintained by the support contractor along with payroll submittals. These files are not included in the closeout contract and are only maintained for one year after contract completion. Deliverable products under the contracts such as as-built drawings, maintenance and operating manuals, etc. are properly retained by the technical organization as required for configuration management, maintenance, etc.

Inadequate brand name or equal requirements in the construction design packages were incorporated into construction solicitations/contracts in spite of specific comments from the legal office. The legal comments in one file reviewed were addressed by the COTR rather than the contracting officer, and the file contained no evidence of follow up with the legal office to resolve the areas of concern. Construction solicitations did not incorporate the associated mandatory solicitation provision FAR 52.211-6 and also contained language in the specifications/drawings which conflicts with FAR 52.211-6.

The majority of construction projects are awarded and administered through the center’s base operations support contract, ROME. The reduction in staffing levels within Langley Procurement was the primary reason for utilizing the ROME contract. All specifications/drawings packages for construction projects are developed under the ROME contract pursuant to applicable architect and engineering terms and conditions. Document management, configuration management, and estimating services for construction projects are also conducted under this contract. Construction project, design, and performance estimates are also developed under the ROME contract either by the prime contractor or through subcontracts.

The ROME contracting officer recently updated the organizational conflict of interest plan in the contract to minimize any potential conflicts and implemented measures to ensure that independent government estimates are reviewed by knowledgeable civil servants. Cost estimating services for construction projects are now provided by a different contractor.

STRENGTHS:

Langley Procurement is commended for the unusually thorough contract cost/price analysis and negotiation documentation in the negotiated construction contracts and contract modification files. The Langley Forms 336 “Change Request” and 327 “Contractor Change Pricing Form” are particularly useful in documenting the negotiations.

Langley Procurement is commended for the development of release language incorporated into construction contracts -- “Both parties agree that this modification is a full, complete and final equitable adjustment for all work described above. By its signature the contractor expressly represents and acknowledges that it has considered and made allowance for all costs, including but not limited to the following: labor, materials, subcontracts, impact, delay, extended overhead, dislocation, disruption, and inefficiencies of performance.” This clause protects the interests of the government and is identified as an agency best practice. **(Best Practice)**

ROME specific:

Langley Procurement (the ROME contracting officer) is commended for the significant progress made in obtaining the necessary requiring organization support to implement changes to ensure that organizational conflicts of interest are appropriately addressed and additional oversight is added to minimize potential vulnerabilities.

CONSIDERATIONS:

Langley Procurement shall consider establishing a rotational or detail assignment to provide an opportunity for procurement personnel to support construction projects, absorb the unique skills, and obtain lessons learned. This type of assignment represents a growth opportunity for procurement personnel and assists in maintaining critical skills in this specialized area.

Langley Procurement shall ensure that contracts clearly identify required contractor coordination efforts, include points of contact as appropriate, and ensure that either the contracting officer or COTR receives copies of any correspondence and interactions. The lack of clear guidance regarding contractor coordination and communication increases the potential for constructive changes or other inappropriate direction.

Headquarters

The Headquarters Office of Procurement shall consider developing a unique clause to ensure that sections of the construction specifications generated by “NASA SpecIntact” do not duplicate or conflict with clauses required by FAR 36 and NFS 1836.

ROME specific:

Langley Procurement shall ensure that the contractor’s conflict of interest plan addresses the inherent conflict associated with the same firm providing design services, preparing independent government estimates, providing verification of ‘as-built’ drawings, and performing as the construction company. The plan shall also address mitigation efforts to avoid improper release of independent government estimates or supporting data to potential subcontractors.

Langley Procurement shall ensure that independent quality assurance (including verification of as-built drawings, field inspection services, and submittal reviews) is conducted by non-ROME personnel on all ROME construction projects.

Langley Procurement shall consider utilizing outside design firms for ROME construction tasks, outside construction firms for ROME design packages, or both, if adequate resources are available to perform the procurement and contract administration functions.

Langley Procurement shall work with the technical organization to ensure that unduly restrictive requirements are not included in the ROME contract, particularly with regard to 'brand name or equal' products requirements.

WEAKNESSES:

Langley Procurement shall ensure that correspondence, payroll documents, and original invoices are forwarded to closeout with the rest of the contract file for proper records retention.

Langley Procurement shall ensure that the appropriate payments clause "FAR 52.232-5, Payments Under Fixed-Price Construction Contracts," is incorporated into construction contracts and that the utilization of SF 1443 "Contractor's Request for Progress Payment" is discontinued since it is not applicable to construction contracts.

Langley Procurement shall ensure that the appropriate brand name or equal requirements and the mandatory FAR 52.211-6 solicitation provisions are incorporated into construction solicitations/contracts.

ROME specific:

Langley Procurement shall ensure that the ROME contractor appropriately identifies salient characteristics when brand name or equal specifications are utilized in accordance with FAR and the statement of work requirements. Further, Langley Procurement shall ensure that the contractor's failure to identify the salient characteristics is appropriately reflected in the contractor's performance evaluation.

5. Environmental Issues

The review focused primarily on construction and services contracts to evaluate compliance with environmental requirements. Langley Procurement initiated several LEED* certified construction projects for new facilities with the initial groundbreaking ceremony in July 2009 for the first of six planned LEED projects. The minimum designation for LEED certification on the projects is a silver rating, the objective is a "gold" rating. The building is estimated to reduce energy consumption by 85%. The building uses a geothermal heating and cooling system, along with photovoltaics, a "green" garden roof, and other energy efficient features, including extensive natural light to minimize the need for artificial lighting and the associated energy consumption.

An Energy Savings contract involving rehabilitation of multiple buildings on site to meet agency goals for reduction of energy consumption was recently awarded. Several smaller contracts do not include appropriate the FAR 23 clauses including FAR 52.223-3, "Hazardous Material Identification and Material Safety Data"; FAR 52.223-12, "Refrigeration Equipment and Air Conditioners"; FAR 52.223-15, "Energy Efficiency in Energy Consuming Products"; and FAR 52.223-17, "Affirmative Procurement of EPA-Designated Items in Service and Construction Contracts".

(*LEED – Leadership in Energy and Environment Design Green Building Rating System, LEED is a 3rd party certification program for the design, construction, and operation of high performing green buildings. There are four levels of certification for new construction: certified, silver, gold, and platinum.)

STRENGTHS:

Langley Procurement is commended for initiating construction projects which meet and exceed FAR requirements for sustainability and energy efficiency in new construction. The LEED certification of the new construction projects and planned future construction procurements provide evidence that Langley is an agency leader in this area.

Langley Procurement is commended on the recent award of an Energy Savings contract involving rehabilitation of multiple buildings on site to meet agency goals for reduction of energy consumption. This complex effort using performance requirements further demonstrates the commitment and high levels of competency in meeting the requirements of FAR 23.

WEAKNESS:

Langley Procurement shall ensure that contracts include the required FAR 23 clauses and work with the technical organizations to ensure that hazardous materials and/or energy consuming, or other EPA designated products, are identified on the purchase requisition and coordinated with the environmental and safety offices.

6. Utilization of GSA Schedules

A review of the ordering procedures, market research, and contract documentation for awards utilizing GSA Schedules was conducted. All GSA Schedule contracts/orders reviewed utilized the ordering procedures in accordance with FAR 8.405-1 and FAR 8.405-2. Each contract file included a completed market research analysis report, the small business set aside recommendation, and an award decision determination memorandum. A minimum of three or more schedule vendors were solicited for each requirement as required. Additionally, the solicitations consistently requested information regarding vendor discounts off the published GSA labor rates. All sole source award files included the necessary limited source justification. Overall, the contract files were well-documented and contained the appropriate rationale and justifications.

7. Contract Management Module (CMM) Implementation

Several areas were reviewed in CMM (purchase requisitions (PRs), milestones, contracts, and solicitations) to verify CMM utilization by Langley Procurement. The CMM files were reviewed to measure the extent of CMM implementation. Langley Procurement is familiar with the use and operation of CMM. However, areas of concern were noted.

PRs were reviewed in CMM to verify that proper documents were provided to the contract specialist in the PR package. Statements of work were attached to some PR packages but not all. Discussions with procurement personnel revealed that purchase requisitioners using Macintosh computers could not attach certain items to the PR.

Solicitations are generated in CMM. However, the draft solicitations remain in "in Process" mode after posting on the NAIS. Two draft solicitations were incorrectly identified with the letter "R" at the end. The NFS 1804.7102 specifies that draft solicitation identification numbers should end with the letter "J".

The milestone templates were used to generate milestone reports in most instances. However, not all PRs were linked to a milestone plan. Langley Procurement operating procedure, LMS-OP-4508, states that the Milestone Plan shall be named as follows: MS plus the PR Number. Not all contract specialists are using the directed format, the appropriate milestone templates, or appropriately annotating actual milestone dates.

Contract documentation in CMM and the documentation contained in the contract file did not always match. Some clauses in the CMM documents were not in the copy of the contract contained in the file and vice versa. The CMM documents contain several 'to be determined' annotations, but the contract file documents were completed with the correct information.

CMM proficiency and utilization has increased since the initial implementation of the system. Langley Procurement sponsored "hands on", one-on-one, and focused training sessions on the use of templates and invoice approval to facilitate workforce proficiency.

CONSIDERATION:

Headquarters:

The Headquarters Office of Procurement shall consider providing written direction on the utilization of milestone templates in CMM.

WEAKNESS:

Langley Procurement shall ensure that the contract document in CMM and the contract document contained in the contract file are identical.

8. Other

GENERAL CONSIDERATION:

Langley Procurement shall consider de-consolidating the requirements under the ROME contract for any follow-on efforts to maximize cost effectiveness.

ATTACHMENT I
SMALL BUSINESS PROGRAM

SMALL BUSINESS PROGRAM

I. OVERVIEW

A. Scope of Review

The purpose for the Office of Small Business Programs (OSBP) participation in the Procurement Management Review is to ensure that the center small business program has adequate processes, and that these processes are fully implemented to meet the goals established by NASA and LaRC. The review also identifies any issues that may prevent a center small business office from accomplishing its mission. The review employs contract file reviews, interviews, and metric analysis in order to cover socio-economic goals, procurement planning, subcontracting, award fee evaluation plans and determinations, reporting, outreach programs, and training programs. The review pays attention to the various categories of small businesses (SB), small disadvantaged businesses (SDB), woman-owned small businesses (WOSB), veteran- (VOSB) and service-disabled veteran-owned small businesses (SDVOSB), Historically Underutilized Business Zone small businesses (HUBZone), and Historically Black Colleges or Universities/Minority Institutions (HBCU/MI).

B. Organizational Structure and Staffing:

The Langley Research Center (LaRC) Small Business Office consists of one full-time Small Business Specialist. LaRC also has an Industry Assistance Office staffed by one Program Analyst. Both individuals fall under the Business Management Branch of the LaRC Office of Procurement. According to the Program Analyst's position description, the Program Analyst acts as an assistant/deputy to the SBS, in addition to other duties not directly related to small business. Both the SBS and Program Analyst report to the Lead of the Business Management Branch, who also happens to be the Deputy Procurement Officer. The SBS has been at LaRC since 1977 and has acted as SBS for 25 years.

Based on interviews with the SBS, contractors, contracting officers, and the SBA Procurement Center Representative (PCR), there appear to be strong relationships among the aforementioned entities. Moreover, the SBS indicated that LaRC OP management is very supportive of the small business program.

C. Small Business Specialist Responsibilities:

The Position Description for the SBS lists the following duties: (1) advises LaRC and OP staff, and provides leadership and direction for the LaRC socio-economic activities; (2) plans, develops, and implements LaRC-wide socio-economic program policies, procedures, practices, and goals; (3) represents LaRC to Congressional, Federal, State, and Local government audiences as well as to the business community; (4) maintains continuing reviews and evaluations of small business activity within the acquisition process at LaRC; and (5) plans and conducts seminars, training, and counsel for the program, contracting personnel, and the business community.

The Position Description for the Program Analyst lists the following small business-related duties: assisting the SBS with the responsibility for planning, implementing, monitoring and managing, an aggressive center small business program; serves as an advisor on all LaRC small business matters; assists in developing annual goals; monitoring and tracking goals, providing monthly/quarterly metrics; reviews planned procurement actions for set-aside possibilities and serves as approval authority for the set-aside documentation (Form LaRC P46); approves

subcontracting goals for procurements over (\$550,000); serves as the center's expert in determining NAICS code requirements; and provides expert advice and support to Source Evaluation Boards and Performance Evaluation Boards.

II. METRICS

A. Center Prime Contractor Small Business Goals and Actuals:

Small business goals are defined in terms of an agency's or center's dollar obligations in a small business category or sub-category, as a percentage of all contract obligations during a fiscal year. The overall small business goal includes all the small business subcategories. Over the period FY 2007-08, LaRC has missed only one center goal, the SDVOSB goal in FY 2007. LaRC received an award from OSBP for meeting all its goals in FY 2008.

In addition, LaRC received an award in 2007 and 2008 from the National Veterans Conference for achieving the statutory government-wide 3% goal in the SDVOSB category, which has proven to be a difficult category. Meeting the 3% category is relatively rare among federal agencies.

As of this report, LaRC is short of the FY 2009 HUBZone goal but is meeting all its other FY 2009 goals. The SBA PCR noted that LaRC's ROME contract, awarded to Jacobs Sverdrup in FY 2004, absorbs almost all of LaRC's construction work, and thus many small business prime opportunities along with it. (Note: 8[a] ceased to be a goaled category after FY 2007.)

LARC Prime Metrics (Extracted from FPDS July 2009)

	FY07 Final Actuals	FY08 Final Actuals	FY09 Actuals of 6/30/09
Small Business %	42.76%	35.39%	37.77%
Goal	27.10%	25.00%	35.00%
Dollars	\$ 172,556,429	\$164,781,480	\$ 105,312,057
SDB %	13.16%	11.86%	15.20%
Goal	2.3%	7.50%	11.00%
Dollars	\$53,114,187	\$55,221,903	\$ 42,392,008
8(a) %	12.13%	Not applicable	Not applicable
Goal	6.89%	Not applicable	Not applicable
Dollars	\$48,955,915	\$46,128,378	\$ 32,592,857
HUBZone %	0.36%	0.59%	0.05%
Goal	0.10%	0.10%	0.30%
Dollars	\$1,456,916	\$2,748,877	\$ 146,174

WOSB %	12.91%	11.03%	10.92%
Goal	1.40%	8.00%	10.00%
Dollars	\$52,089,700	\$ 51,345,435	\$ 30,459,380
SDVOSB %	3.67%	3.45%	5.44%
Goal	3.70%	2.50%	3.50%
Dollars	\$14,825,340	\$16,084,643	\$ 15,480,135

B. Individual Subcontracting Report (ISR):

LaRC manages approximately 34 contracts containing subcontracting plans, according to a list that the SBS provided (last updated in 2008). Contractors are required to submit Individual Subcontracting Reports (ISR's) by April 30 (mid-year) and October 30 (year-end) of each year. FAR 19.705-6 (h) and 52.219-9 (l) (iii) (a) indicate that acknowledging receipt or rejecting the report is the responsibility of the Contracting Officer. In FY 2009, although 25 mid-year ISR's have been submitted, only two have been accepted and none have been rejected at the time of this Review in July 2009. In addition, there appear to be several contractors who have not submitted the mid-year 2009 ISR at all. (Some of the contracts are actually task/delivery orders which have subcontracting plans but are not eligible for eSRS reporting due to their delivery/task order status.) The figures in the table below were obtained from the Electronic Subcontracting Reporting System (eSRS).

Although ISR acceptance occurred more regularly in FY 2007-08, the ISR finding is still of particular concern. There has been a 30% turnover in staff over the last 3 years which may be a contributing factor. Much of the new staff came from Department of Defense, which has not been required to use eSRS for ISR's (FAR Deviation 2008-O0008 to Clause 52.219-9). The reviewer has offered to provide training to LaRC staff for purposes of reviewing and accepting ISR's.

ISR Processing Metrics

Period	# of Subcontracting Plans	ISR's Submitted	ISR's Accepted	ISR's Rejected	Pending Gov't Action
End 2006	Not Available	25	25	0	0
Mid 2007	Not Available	22	22	0	0
End 2007	Not Available	18	18	0	0
Mid 2008	34	19	17	0	2
End 2008	34	21	12	0	9
Mid 2009	34	25	2	0	23

C. Set-Aside Metrics

Set-asides are a tool to increase awards to small businesses, and when used in the correct way, can build the industrial base. The Industry Assistance Office maintains copies of all P46's (Set-Aside Recommendation forms) allowing for the compilation of the data below. A relatively high percentage of contracts awarded at LaRC are awarded from NASA Research Announcements. Such contracts are not included in the figures below since P46's are not required in these cases. SBIR and STTR awards are now done at NSSC.

The relatively high number of sole source procurements stem partially from software licensing agreements and follow-on contracts. This is a new metric and data from other centers is not yet available for purposes of comparison.

The data below indicate that there have been no set-asides for SDVOSB or HUBZone categories. For HUBZones, the LaRC Industry Assistance Office notes that the center’s primary HUBZone opportunity lies in high-voltage transformer work, and that there are two HUBZone businesses available to perform this work. Depending upon the type of funding available, the work is subcontracted to one of these firms through LaRC’s ROME contract, or is awarded on a sole-source basis to one of the firms. In the latter case, the P46’s seem to have indicated a small business sole-source award instead of HUBZone sole source award. In the case of SDVOSB’s, LaRC is meeting its SDVOSB goal, and has on-site contractors who are SDVOSB’s but happened to win contracts through the 8(a) program.

See also the discussion of P46’s under the “Set Aside Recommendations” section below.

Small Business Set-Asides

	FY2007	FY2008	FY2009 (to date)
Competitive Small Business Set-Asides Awarded (excluding 8[a])	15	6	4
Non-competitive Small Business Set-Asides Awarded	2	3	2
8(a) procurements	2	1	1
HUBZone Set Aside	0	0	0
SDVOSB Set-Aside	0	0	0
Full and Open Competitive	13	23	3
Sole Source – Other than Small	13	8	9
Sole Source - Small	2	3	2

III. PROGRAM MANAGEMENT

The Small Business Office and Industry Assistance Office both appear to be included in all pre-award functions, including market research, set-aside recommendations, subcontracting goals, and ex-officio membership on Source Evaluation Boards. At LaRC, the Contracting Officer usually makes the set-aside recommendation, and develops the subcontracting goals, while the Program Analyst or SBS assist and concur in the process.

A. Pre-Award Functions

1. Center Acquisition Forecast

NFS 1807.72 states that it is NASA policy to prepare an annual Acquisition Forecast and semi-annual update, as required by the Business Opportunity Development Reform Act of 1988. In addition, the Forecast should include

contract opportunities that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, may be capable of performing. The LARC Acquisition Forecast is updated and posted on the web by the Small Business Office. The last update was in April 2009.

2. Set Aside Recommendation Reviews/Coordination

LaRC has established a Form P46 to document set-aside recommendations. LaRC also maintains a policy document, LMS-OP-4507 that sets forth when the P46 is to be used. Both documents were updated as recently as 2008, which indicates that LaRC's Business Management branch pays close attention to this process. Each procurement over \$100,000 (other than NRA awards) requires a P46. The policy document, however, does not specify whether a P46 is required for delivery/task orders under IDIQ's (a recent GAO case, Delex Systems, asserted that set-aside requirements apply to delivery and task orders). Although the Contracting Officer generates the form, the CO usually does not sign it until after the Industry Assistance Office and the SBA PCR sign it. This order is different from other centers. The reviewer notes that while P46's were always in the file when required, the forms sometimes lacked one or more signatures. This appears to be part of a broader file documentation issue discussed in the procurement portion of this review. Also, there are some P46's that were signed before market research was completed; these entailed sole source procurements for which the P46 was signed before a presolicitation notice was issued and the results analyzed.

3. Uniform Methodology for Determining Small Disadvantaged Business Goals

NPD 5000.2A is used to establish a uniform method for determining recommended small business goals, which are incorporated into solicitations for full and open competition valued at \$50M or more. The methodology entails review of the solicitation's statement of work to identify areas with subcontracting opportunities; review of the subcontracting history of the contract if the solicitation is for a follow-on requirement; a review of the subcontracting history of similar contracts; market research to assess the availability of small businesses with the capability to perform the effort in the statement of work requirements; and a determination of the percentage of the effort that can be subcontracted to small businesses. Goals established in subcontracting plans are incorporated into the awarded contract and are tracked both on a six month and cumulative basis.

During the survey period, LaRC only had one procurement over \$50 million, the recent LiTES procurement to replace the CONITS GSA Millennia Lite task order. The document was developed by the Contracting Officer and concurred on by the SBS. LaRC also coordinated the document with OSBP.

For procurements below \$50 million, LaRC has developed a form, P327, to document the development of recommended goals.

4. Subcontracting Plan Review

Subcontracting plans for prime contracts over \$550,000 are required, except if the contract is awarded to a small business, and are sent to the SBS and PCR for review and concurrence. The plans are reviewed in accordance with FAR 19.704 and 52.219-9. In addition, LaRC maintains a coordination form (P245) for the approval of subcontracting plans, along with accompanying policy, LMS-OP-4516. Both the form and the policy document were revised in 2008. As mentioned previously, this indicates that the LaRC Business Management Branch pays considerable attention to the process.

FAR 52.219-9 requires that subcontracting goals be expressed in terms of percentage of total dollars subcontracted. Simultaneously, NPD 5000.2 requires that goals be expressed as a percentage of total contract value. Additionally, the Individual Subcontracting Report generated by eSRS uses both methods. The reviewer found that while a majority of the plans appeared to be complete, some of the subcontracting plans contain only one of the two methods. Furthermore, one subcontracting plan contained “0” goals in all categories, which is tantamount to no plan at all. In such cases, FAR 19.705-2 (c) requires a determination that no subcontracting possibilities exist, and that the determination be approved at a level above the Contracting Officer and placed in the contract file. The reviewer did not find any such determination in the file.

B. Contract Administration

1. Reporting

OSBP tracks percentage subcontracting goals reached in the semi-annual Program Reports submitted by centers. This data is not currently available from LaRC. Also, see discussion of “Individual Subcontracting Report (ISR)” in the Metrics section above.

2. Award Fee Contracts

At LaRC, the small business specialists have not provided input into award fee determinations. LaRC has three award fee contracts with subcontracting plans. Of the three, one (CONITS) has an Award Fee Evaluation Plan that has a separately weighted factor (10%) for subcontracting performance. The other two contracts mention subcontracting performance as one of several unweighted bullets within an overall “Management” factor. Accordingly, these latter two contracts fall short of the policy in NFS 1816.405-274 (g) that the evaluation weight assigned to subcontracting achievements should be significant (up to 15%).

The reviewer notes that LaRC also has one Award Term contract that contains a separately weighted factor (10%) for subcontracting performance in the Award Term Evaluation Plan.

The reviewer also notes that a recent NF-1680 (Performance Evaluation form) for the CONITS contract discussed the contractor’s subcontracting achievements, and did so in a separate block on the form. OSBP considers this to be very positive.

None of the award fee/award term contracts contain subcontracting metrics in the evaluation plans. Metrics for subcontracting would typically define, in a quantitative fashion (e.g., by how much a contractor exceeded or missed its goals), what would render a particular verbal rating.

C. Coordination

1. Small Business Administration (SBA) PCR:

The SBA PCR, Ms. Octavia Turner, is assigned to LaRC. Her office is in the same building as the LaRC Office of Procurement, Small Business Office, and Industry Assistance Office. However, the PCR is also responsible for other federal offices in the Hampton Roads area. The LaRC PCR reviews P46 forms, but only those which exceed \$100,000 and are not set aside for small business. The PCR reviews all subcontracting plans and subcontracting

plan waivers, and often provides comments accordingly. The PCR does not recall any Form 70's (nonconcurrences with set-aside decisions) during the Review period. The PCR indicates she works well with the SBS and Industry Assistance Office. Only occasionally does she work directly with Contracting Officers.

2. Center Small Business Technical Advisor:

LaRC's Small Business Technical Advisor (SBTA), Mr. Bob Yang, has been the SBTA for approximately 4 years and has been at LaRC since 1986. He has an appointment letter and is familiar with his SBTA duties. He supports the SBS and Industry Assistance Office at 2-3 outreach events per year. He indicated that he only supports procurements over \$500 million. There are few of these at Langley and thus it has been at least a couple of years since the SBTA last supported a procurement. When there is procurement support, there is not a formal appointment letter to a procurement development team.

The SBTA, who is also LaRC's SBIR representative, has joined the Procurement Officer and the SBS in exploring ways for SBIR Contractors to team up and compete for larger, non-SBIR procurements.

Regarding SBIR's, the SBTA indicated that LaRC awards in the range of \$750,000 - \$1,000,000 in Phase III SBIR awards each year.

D. Small Business Improvement Plan Initiatives

LaRC has been working to implement the three NASA Small Business Improvement Plan (SBIP) initiatives. The three initiatives for FY08, along with LaRC's implementation, were:

1. *Ensure Accurate Reporting and Data* – LaRC conducts an annual statistical sample of FPDS-NG data as required by NFS 1804.604. Other random internal reviews are conducted along with reviews resulting from external impacts i.e. audits. The LaRC small business specialist runs monthly reports in the various small business goal categories and reviews data for accuracy.
2. *Improve the Centers Actuals and Goals* – As noted previously, LaRC met all of its goals in FY 2008, and barely missed one goal in FY 2007.
3. *Obtain Management Commitment* - Langley's Procurement Officer is the co-chair person for the LaRC Contractor Steering Council and does briefings on various small business topics and goal status. The LaRC Small Business Specialist is a member of the Management Commitment Headquarters Team. Additionally, the performance evaluation plans for senior management including the Director of Procurement and their staff, include commitment to, and evaluation of, small business performance.

E. Special Assignments/Committees

The SBS is assigned as the Technical Monitor for the Legacy Closeout Services Contract. The SBS also is involved in calculating metrics for the Tessada contract. In addition, the SBS is a member of the Executive Committee of the LaRC Contractor Steering Council, as well as a member of other regional councils and boards.

F. In-Reach and Outreach

1. Programs: LaRC Contractor Steering Council

The Contractor Steering Council, established in 1989, meets once per month on site, and is open to all LaRC prime contractors, large and small. The Council provides an informal framework where contractors with a vested interest and existing business base at LaRC can establish working relationships to enhance the partnership bond that already exists. The Council also provides timely information and advice on Center-wide issues of mutual interest and acts as a forum for ad hoc communications between LaRC and the local contractor community.

2. Management Briefings and Briefings to Other Center Organizations

Date	Attendees	Significant Issues
Quarterly	OP Management	SBS briefs the OP Management Team at the Quarterly Metrics Meetings: Discuss FY Socioeconomic Programs and goals achievements to date and any corrective action as needed.

3. Training Provided and Received

Date	Subject Matter	No. of Attendees	Attendee Discipline	Concerns
12/13/08	Small Business Program	25	COTR's	
5/14/08	Partnership Agreement	50	OP Staff	
Training received by the Small Business Specialist during this reporting period:				
12/12 – 14/2006: NASA Procurement Training Conference, Long Beach, California 1/17/2007: 2hrs. CICA and Bundling 1/30/2007: 4hrs. Introduction to Supplier Diversity 1/17/2008, NASA Mentor Protégé Program Training 2/19/2009: HQ-Acquisition Integrity Program Training for Acquisition Professional Various: Small Business Council Meetings				

4. Counseling

LaRC meets with and counsels small businesses as requested by the businesses themselves. In the first half of FY 2009, LaRC counseled over 3,600 small businesses either via email, over the phone, or in person.

5. Participation in Conferences, Expos, Industry Days

Date	Event	Type of Outreach (i.e. In-office counseling, conference, meeting, telephone, etc.)	Type of Participation (event host, speaker, attendee, matchmaking, etc.)	Location
10/15/07	KSC Business Opportunities EXPO	Counseling	Counseling	KSC
1/29/08	Aerospace Day	Meet with members of the Virginia General Assembly to promote the importance of aerospace to the economy and the future of the commonwealth	Education/importance of Aerospace in Va., e.g. jobs, Dollars, economy, etc.	Richmond VA.
3/3-7/08	JPL High Tech Procurement Conference	Counselor and workshops	Served on a Panel, speaker and counseled attendees	Los Angeles, CA
4/23-25/08	SDBU Conference	Counselor, and match-making	Counseling	Upper Marlboro, MD
7/7-10/08	Veteran Conference	Counselor	Counseling	Las Vegas, NV
8/19-22/08	Veteran Conference	Counselor	Counseling	Annapolis, MD
9/3-5/08	National MED Week	Counselor	Counseling	Washington, DC
10/21/08	KSC Business Opportunities EXPO	All categories of business firms	Counseling	KSC, Florida
2/4-5/09	Aerospace Day	Members of the Virginia General Assembly	One on one meetings with delegates of the VA Assembly	Richmond, VA
3/2-5/09	JPL High Tech Business Conference/Expo	All categories of business firms	Counseling	Los Angeles, CA

IV. SUMMARY

In summary, the LaRC Small Business and Industry Assistance offices have the necessary processes and procedures in place and is effective in meeting the goals of NASA and the LaRC. Below is a list of the organization's strengths, considerations, and weaknesses.

A. STRENGTHS:

1. The relationship between and amongst the SBS, Industry Assistance Office, Office of Procurement, the SBA PCR, SBTA, and contractors appears to be very strong. This is important in that the Small Business Office is viewed as a help (value added) rather than a hindrance. In addition, LaRC OP management appears very supportive of the small business program.
2. The SBS and Industry Assistance Office are very involved in the market research and pre-award phases of LaRC procurements, including participation on SEB's as well as smaller procurements. There is effective coordination with the Small Business Office regarding set-aside recommendations, setting subcontracting goals, and review of subcontracting plans.
3. LaRC has established, and regularly updates, forms and policy for the various pre-award phases, including set-aside recommendations, recommended subcontracting goals, and subcontracting plan reviews. Additionally, the Industry Assistance Office maintains copies of all P46 forms, facilitating this review.

4. The CONITS Award Fee contract and the ROME Award Term contract both contain a separately weighted evaluation factor (10%) for subcontracting achievements. Additionally, a recent CONITS NF-1680 discussed the contractor's subcontracting achievements, and did so in a separate block on the form.
5. LaRC met all of its subcontracting goals in FY 2008, and missed just one goal in FY 2007. In FY 2009, LaRC is on track to make at least 4 of its 5 goals. In addition, LaRC has received awards from the National Veterans Conference for meeting the statutory government-wide 3% SDVOSB goal in 2007 and 2008.

B. CONSIDERATIONS:

1. LaRC should ensure that Award Fee Evaluation Plans comply with NFS 1816.405-274 (g). LaRC also might consider including subcontracting metrics in its evaluation plans.
2. LaRC might seek input from the SBS in future Award Fee Evaluations and annual contractor performance evaluations.
3. LaRC should ensure market research is completed before signing P46's for sole source procurements.

C. WEAKNESSES:

1. Only two of 25 ISR's submitted in FY 2009 have been reviewed and accepted. In addition, it appears that several contractors have not submitted their mid-year 2009 ISR (April 30 due date). LaRC needs to pay additional attention to ISR's, so that contractors are aware that the government is monitoring their subcontracting performance.
2. LaRC should ensure that subcontracting plans contain all required information, including goals expressed as percentages of both (a) total subcontracting dollars and (b) total contract value. Additionally, subcontracting plans should contain actual dollar goals instead of "0" goals (or that a determination that no subcontracting possibilities exist is included in the file as appropriate).